

DEPARTMENT OF FOOD AND AGRICULTURE

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- REVISED -

**NOTICE OF PUBLIC HEARINGS TO CONSIDER AMENDMENTS TO
THE STABILIZATION AND MARKETING PLANS FOR MARKET
MILK FOR THE NORTHERN CALIFORNIA AND SOUTHERN
CALIFORNIA MARKETING AREAS**

Notice is hereby given that the California Department of Food and Agriculture is calling two public hearings, the first to consider amendments to the Stabilization and Marketing Plan for Market Milk for the Northern California Marketing Areas, and the second to consider amendments to the Stabilization and Marketing Plan for Market Milk for the Southern California Marketing Areas (collectively, Plans). This Notice revises the original Notice issued on February 18, 2005.

Hearing Date, Place and Time - The Northern California hearing will be held on May 3, 2005.

The hearing will begin at 8:30 am at the Red Lion Hotel, 2001 Point West Way, Sacramento. To ensure the opportunity for all persons in attendance to enter testimony and evidence into the hearing record, if necessary the hearing will be continued to the following day.

The Southern California hearing will be held on May 6, 2005. The hearing will begin at 8:30 am at the Ontario Airport Marriott, 2200 E Holt Boulevard, Ontario.

The hearings are called pursuant to Articles 4 through 9, Chapter 2, Part 3, Division 21 of the Food and Agricultural Code (FAC), as implemented by Title 3, Section 2080.2 of the California Code of Regulations (3 CCR 2080.2). The hearing noticed herein will be conducted in accordance with the procedures prescribed in 3 CCR 2080.4.

Petition Received by the Department – On February 9, 2005, the Department received a petition from Dairy Institute of California (Dairy Institute), requesting a public hearing to consider amendments to the Plans. The Dairy Institute petition proposes amending the Commodity Reference Price (CRP) adjuster employed in the Class 1 (milk used in fluid products including lowfat, reduced-fat, and nonfat milks) milk pricing formulas.

This petition is considered pursuant to FAC Sections 62031 through 62079, and 3 CCR 2080.2. A copy of the petition can be obtained by contacting the Dairy Marketing Branch at (916) 341-5988 or accessing the Department's dairy web site at www.cdfa.ca.gov/dairy. The web site information can be accessed from the dairy home page, by clicking *Announcements; Hearings and Statutes*; then *Dairy Hearing Matrix*; then go to *Class 1 Pricing Formula*.

Call of Hearing - The first hearing will consider Dairy Institute's proposed consolidated changes to specific components of the current Class 1 pricing formulas. The hearings will also consider any other aspect of the Class 1 formulas that are raised by alternative proposals received in the time and format specified below. (Reference Article III, Section 300, Paragraph (A) of the Plans.) Additionally, because any change in the relative Class 1 prices between Northern and Southern California affects the ability of processors to move milk plant-to-plant, the hearings will consider adjustments to the Transportation Credits, but only to the extent that there are changes to the relative Class 1 prices. (Reference Article III, Section 300.2 of the Plans.) The hearings will also consider the factual basis, evidence and the legal authority upon which to make any and/or all of the proposed amendments to the Plans.

Interested parties should also refer to the pricing criteria established in FAC Article 9, Chapter 2, of Part 3, Division 21 and the declarations, purposes, goals and requirements of the Milk Stabilization Program as codified in FAC Chapter 2 and FAC Sections 62062 and 62076.

Alternative Proposals – All interested parties are entitled to submit proposals detailing alternative adjustments in the Class 1 price formulas, and any compensating changes in the Transportation Credits. **Alternative proposals must be signed by a responsible party and received by the Department's Dairy Marketing Branch no later than 4:00pm on Wednesday, April 6, 2005.** The Dairy Marketing Branch's office location is the Downtown Plaza, 560 J Street, Suite 150, Sacramento. Alternative proposals may be sent electronically via email to dairy@cdfa.ca.gov, faxed to (916) 341-6697, or mailed to Hearing Officer, c/o CDFA Dairy Marketing Branch, 1220 N Street, Sacramento CA 95814.

At the hearings the Department will receive testimony and evidence, both oral and documentary. Interested parties who wish to introduce testimony and/or exhibits shall provide the Hearing Officer at the hearings six (6) copies of such documents for the official record, as well as one copy for the court reporter. In addition, the Department requests participants make an additional fifty (50) copies available for departmental distribution to other hearing participants.

Copies of the transcripts of testimony received at the hearings will not be available for distribution via the Department, but are available for inspection at the Dairy Marketing Branch. If interested parties wish to purchase copies, arrangements may be made with the reporting service at the hearings.

Final Decisions Resulting from the Hearings - The final decisions resulting from these hearings will be issued in accordance with the procedures and criteria contained in Chapter 2 of Division 21 of the FAC, as necessary.

The Department's decision will include consideration of all relevant economic factors including, but not limited to, the following:

- The reasonableness and economic soundness of market milk prices for all classes, giving consideration to combined income from those classes, in relation to cost of production and marketing for all purposes including manufacturing;
- Whether prices will insure an adequate and continuous supply, in relation to demand, of pure, fresh, wholesome market milk for all purposes, including manufacturing purposes, at prices to consumers which, when considered with relevant economic criteria, are fair and reasonable;

- Whether prices, including the prices of components of milk, established by the Secretary for the various classes of market milk bear a reasonable and sound economic relationship to each other;
- Whether the amendments would be in accord with all the purposes, policies, and standards contained in Sections 61801, 61802, 61805, 61806, 61807, 62062, 62063, 62074.5, 62076 and 62077.

Ex Parte Communications Prohibited - From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decision-making process are prohibited from discussing the merits of the hearing issues with any person having an interest in the proceeding. Procedural matters are not subject to the above prohibition and may be discussed at any time.

Public Workshop - To assist interested persons in preparing for the hearings, a public workshop will be held on Monday, April 18th, 2005 at the Holiday Inn Capitol Plaza, 300 J Street Sacramento in the California Room beginning at 9:00 a.m. At this workshop, interested persons can review and discuss all proposals submitted with Department staff and other interested parties. The Department will supply background and analysis of the petitions and only those alternative proposals submitted by the April 6th deadline. The workshop will be informal and educational in nature. Discussion during the workshop will not be part of the official hearing record **and shall not be considered in rendering a decision.**

The Department's entire hearing exhibit for these hearings will be available for public inspection at the Dairy Marketing Branch office on April 25, 2005.

If any interested party has questions regarding the call of this hearing please contact Dave Ikari at (916) 341-5988.

Media contacts and publication staff are asked to contact the Department's Public Affairs Office by e-mail at cdfapublicaffairs@cdfa.ca.gov or by phone at (916) 654-0462.

All interested persons are invited to attend and participate in both the public workshop and the hearings. Interested parties are encouraged to present any data or information that is relevant to the consideration of the issues raised in the call of these hearings.

Persons with Disabilities - The Department of Food and Agriculture wishes to ensure that all members of the public have access to all public meetings. If you require a special accommodation, please contact Cheryl Gilbertson at (916) 341-5988 or TDD (800) 735-0193 at least five days before the workshop or hearing dates.

Original signed by:

March 25, 2005

Date _____

Kim I. Myrman
Deputy Secretary